

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN EMPIRE SURPLUS LINES :
INSURANCE COMPANY : Docket No. 08-CV-1208 (WHP)
: Plaintiff, :
: :
-against- : NOTICE OF MOTION
WESTCHESTER FIRE INSURANCE COMPANY :
and GRZEGORZ MATERNIK :
: Defendants. :
: :
-----X

COUNSELORS:

PLEASE TAKE NOTICE, that upon the Declaration of James J. McGuire sworn to the 30th day of May, 2008 and exhibits annexed thereto, the Memorandum of Law in Support of Plaintiff American Empire Surplus Lines Insurance Company's Motion for Summary Judgment, dated May **, 2008, the attached Local Rule 56.1 Statement, and upon all the pleadings and proceedings heretofore had herein, the undersigned will move this Court, on May 30, 2008, before the Honorable William H. Pauley at the United States Courthouse, Southern District of New York located at 500 Pearl Street, New York, New York for an order pursuant to Fed. R. Civ. P. 56 granting summary judgment in favor of the Plaintiff American Empire Surplus Lines Insurance Company, together with such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to the briefing schedule set by the Court, opposing papers and answering memorandum shall be served on or before June 20, 2008, with reply papers to be served on or before June 30, 2008.

Dated: Garden City, New York
May 30, 2008

Respectfully submitted,

L'ABBATE, BALKAN, COLAVITA
& CONTINI, L.L.P.

By: 
JILLIAN MENNA (JM 5708)
Attorneys for Plaintiff
American Empire Surplus Lines
Insurance Company
1001 Franklin Avenue
Garden City, New York 11530
(516) 294-8844

To: James H. Haddad, Esq.
LUSTIG & BROWN, LLP
Attorneys for Defendant
Westchester Fire Insurance Company
150 Grand Street, 5th Floor
White Plains, NY 10601

AFFIDAVIT OF SERVICE

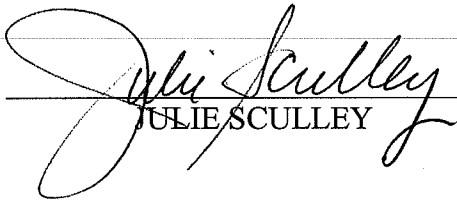
STATE OF NEW YORK)
ss.:
COUNTY OF NASSAU)

JULIE SCULLEY, being duly sworn, deposes and says that deponent is not a party to the within action, is over 18 years of age and resides in Suffolk County, New York.

That on the 30th day of May, 2008, deponent served the within **NOTICE OF MOTION, DECLARATION IN SUPPORT, RULE 56.1 STATEMENT AND MEMORANDUM OF LAW** upon:

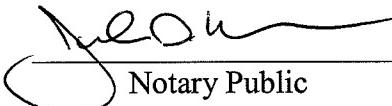
James H. Haddad, Esq.
LUSTIG & BROWN, LLP
Attorneys for Defendant
Westchester Fire Insurance Company
150 Grand Street, 5th Floor
White Plains, NY 10601

the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



JULIE SCULLEY

Sworn to before me this
30th day of May, 2007.



Notary Public

JOHN D. MCKENNA
Notary Public, State of New York
No. 02MC5060018
Qualified in Suffolk County
Commission Expires June 19, 2010